

### **REMARKS**

Applicant thanks the Examiner for withdrawing the previous rejection of claim 10 under 35 U.S.C. §112, second paragraph.

Claims 11 and 12 have been withdrawn.

Claims 1, and 4-10 are pending.

### **ELECTIONS/RESTRICTIONS**

The Examiner has withdrawn claims 11 and 12 from consideration "as being directed to a non-elected invention." See Office Action at p. 2. Applicant respectfully traverses this decision. Claims 11 and 12 are dependent from claim 10 and are not directed to an independent invention. As such, claims 11 and 12 should be examined or at least rejoined when the Examiner deems claim 10 is allowable.

### **CLAIM REJECTIONS**

#### ***Rejection of claims under 35. U.S.C. §102***

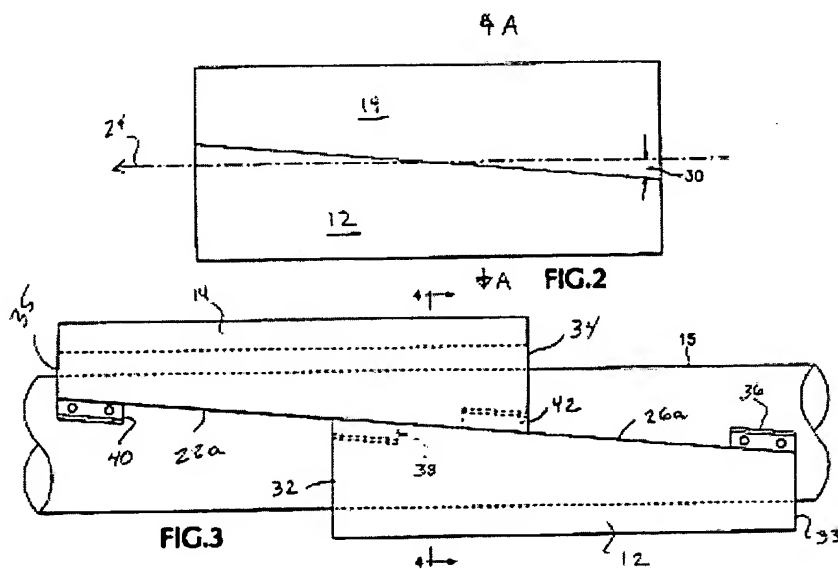
The Examiner has maintained the rejection of claims 1-7 and 9 under 35 U.S.C. §102 (b) as being anticipated by U.S. Patent No. 6,431,216 to Briscoe ("Briscoe"). See Office Action at p. 2-4. Claims 2-7 and 9 are dependent on claim 1.

The Examiner contends that Briscoe "teaches a protective device for use in the protection of at least a portion of an elongated article (Fig 1), the protective device including a main body, first and second parts which connect[] together such that (Fig 8), ... the first and second parts each having two longitudinal extending side edge portions ...." See Office Action at p. 3.

Applicant has discovered a protective device including a main body, first and second parts which are connectible together such that, in an assembled position the main body has a chamber therein, with opposed ends and a central longitudinal axis extending between the opposed ends, the first and second parts each having two longitudinal extending side edge portions which extend generally parallel with the longitudinal axis, are respective side edge

portions of the first part being adapted to cooperate with respective side edge portions of the second part to connect the two parts together in the assembled position. See claim 1.

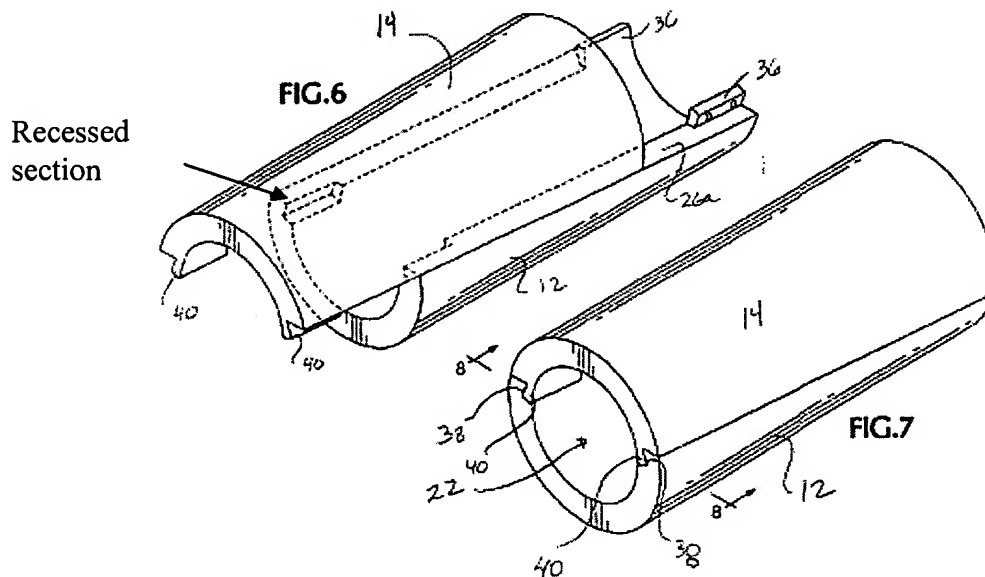
Briscoe discloses "a protection device for protective covering for a cylindrical structure such as a pipe, wire or cable." See col. 3, lines 24-26 of Briscoe. Briscoe does not describe a protection device that includes a main body, first and second parts which are connectible together such that, in an assembled position the main body has a chamber therein, with opposed ends and a central longitudinal axis extending between the opposed ends, **the first and second parts each having two longitudinal extending side edge portions which extend generally parallel with the longitudinal axis.** (emphasis added). See claim 1. On the contrary, Briscoe describes a protection device that consists of two interlocking sections which sections "result from splitting a cylinder lengthwise along a line that is slightly inclined relative to the longitudinal axis 24 of the cylinder." (See FIG. 2.)" (emphasis added). See col. 3, lines 61-65 of Briscoe. For convenience, Figs 2 and 3 of Briscoe are shown below:



Briscoe further states that "[a]s shown particularly in FIGS. 2 and 3, the mating surfaces of the two sections are inclined at an angle 30 with respect to the longitudinal axis 24 of the assembled tube. An angle of inclination of from 5 degree to 10 degree from the longitudinal axis 24 or centerline allows the two sections to be assembled easily on an existing installed

cylindrical structure 15 without the necessity of disconnecting the structure 15 to install the protection device 10.” (emphasis added). See col. 4, lines 27-34 of Briscoe.

Furthermore, Briscoe does not describe a protection device wherein the first and second parts are partially circular when viewed in cross-section, the first part including a major segment of a circle and the second part forming a minor segment of a circle, and the side edge portions of the first or second part includes **a recessed section which substantially extends from one end thereof to the other for receiving the side edge portion of the other part.** (emphasis added). See claim 1. This is illustrated in Figs. 6 and 7 of Briscoe below:



Accordingly, independent claim 1 and claims that depend therefrom are not anticipated by Briscoe. Applicant respectfully requests reconsideration and withdrawal of this rejection.

***Rejection of claim under 35. U.S.C. §103***

The Examiner has maintained the rejection of claim 8 under 35 U.S.C. §103(a) as being unpatentable over Briscoe in view of U.S. Patent No. 6,730,846 to Muller (“Muller”). See Office Action at pages 4-5. Claim 8 is dependent on claim 1.

As previously explained, Briscoe does not teach or suggest a protection device described in claim 1. Muller does not remedy this defect in Briscoe. Muller describes “[a] universal cable fitting for a wide variety of applications includes a longitudinally slit sleeve tube (MR) and sealing bodies (DKG, DK, DKDP, DKS, DKO) on the ends of the sleeve tube.” See Abstract.

Mueller does not describe a protection device that includes a main body, first and second parts which are connectible together such that, in an assembled position the main body has a chamber therein, with opposed ends and a central longitudinal axis extending between the opposed ends, the first and second parts each having two longitudinal extending side edge portions which extend generally parallel with the longitudinal axis. See claim 1. Muller further does not describe a protection device wherein the first and second parts are partially circular when viewed in cross-section, the first part including a major segment of a circle and the second part forming a minor segment of a circle, and the side edge portions of the first or second part includes a recessed section which substantially extends from one end thereof to the other for receiving the side edge portion of the other part. See claim 1.

None of the above-cited references, alone or in combination, teach or suggest the protective device described in claim 1. Since claim 8 depends on claim 1, it is allowable over Briscoe and Muller for at least the reasons described above. Applicant respectfully requests reconsideration and withdrawal of this rejection.

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### **CONCLUSION**

For the foregoing reasons, Applicant respectfully requests reconsideration and withdrawal of the pending rejections. Applicant believes that the claims now pending are in condition for allowance. Should any fees be required by the present Reply, the Commissioner is hereby authorized to charge or credit Deposit Account **19-4293**.

If, for any reason, a telephonic conference with the Applicant would be helpful in expediting prosecution of the instant application, the Examiner is invited to call Applicant's Attorney at the telephone number provided below.

Respectfully submitted,

Date: 9-13-06



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